

REMARKS

This is in response to the Office Action dated May 13, 2004. In view of the foregoing amendments and following representations, reconsideration is respectfully requested.

To more clearly distinguish the present invention over the applied prior art reference, claims 1 and 7 have been amended. It is submitted that none of the changes represent new issues that would require further consideration or search.

In the previous Office Action, claims 1, 2, 5, 7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by van Phuoc et al. (U.S. Patent No. 5,796,239).

An invention is anticipated if the same device, including all of the claim limitations, is shown in a single prior art reference. Every element of the claimed invention must be literally present, arranged as in the claim. Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is in contained in the patent claim. Jamesbury Corp. v. Litton Industrial Products, Inc., 756 F.2d 1556, 1560, 225 USPQ 253, 256 (Fed. Cir. 1985).

As will be demonstrated below the van Phuoc reference clearly does not disclose each and every limitation of claims 1 and 7.

In the present invention, where a keeping temperature and residual capacity of the battery are used for parameters, a keeping degradation capacity is calculated. In clear contrast, van Phuoc (see col. 6, lines 49-64) discloses that the charge delivered to the battery is measured, and adjusted by an efficiency factor which is a function of current, temperature and relative state of charge. Clearly there is no disclosure or suggestion of a

keeping degradation capacity as required in claim 7. Also, van Phuoc, in column 7, lines 8-15, states:

“Finally, CAP_{rem} is also adjusted by subtracting self discharge. Self discharge is calculated as a function of temperature and state of charge, and is always subtracted from CAP_{rem} .”

Clearly this is merely a self discharge and cannot reasonably be considered to be a keeping degradation capacity. Thus, van Phuoc does not meet each and every limitation of claim 7.

Further, with respect to claim 1, and previously discussed, van Phuoc is quite similar to the conventional method which is described in the specification of the present application. In order to illustrate a fundamental difference between the present invention, as claimed in claim 1, and the van Phuoc system, the example set forth in paragraph [0024] is employed. In the present invention, if the learning capacity is 1000 mAh, when a first charge of 500 mAh, a second charge of 200 mAh and a third charge of 300 mAh are performed, since the accumulated quantity has reached 1000 mAh, a count of one cycle is made. This would not be the case in the van Phuoc system wherein the timing of the correction occurs only after the battery is fully discharged. In col. 7, lines 41-43 of van Phuoc, it is described that “a new CAP_{FC} value for the smart battery’s actual capacity is leaned after each full discharge cycle, as a function of the last fully integrated battery discharge cycle.” Note that the Examiner’s reliance on the text of van Phuoc at col. 3, lines 25-52 refutes, rather than supports, the Examiner’s position. Accordingly, since the van Phuoc reference does not make a count of one cycle each time an accumulated

quantity of a charge capacity reaches a learning capacity, the van Phuoc reference cannot anticipate claim 1 under 35 U.S.C. 102(b).

In view of the above, it is submitted that the present application is now clearly in condition for allowance. The Examiner therefore is requested to enter the above amendment and pass this case to issue.

In the event that the Examiner has any comments or suggestions of a nature necessary to place this case in condition for allowance, then the Examiner is requested to contact Applicant's undersigned attorney by telephone to promptly resolve any remaining matters.

Respectfully submitted,

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